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8	BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	In the Matter of the Statement of Issues Against:	Case No. S-359
12	ERLYN OSEO SALVADOR 335 E. 228 <sup>th</sup> Street	STATEMENT OF ISSUES
13	Carson, CA 90745	
14	Respondent.	
15		
16	Complainant alleges:	
17	<u>PARTIES</u>	
18	1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her	
19	official capacity as the Executive Officer of the Respiratory Care Board of California, Department	
20	of Consumer Affairs.	
21	2. On or about June 24, 2005, the Respiratory Care Board of California	
22	(Board), received an application for a Respiratory Care Practitioner License from Erlyn Oseo	
23	Salvador (Respondent). On or about June 10, 2005, Respondent certified under penalty of perjury	
24	to the truthfulness of all statements, answers, and representations in the application. The Board	
25	denied the application on November 22, 2005.	
26	<u>JURISDICTION</u>	
27	3. This Statement of Issues is brought before the Board under the authority of	
28	the following laws. All section references are to the l	Business and Professions Code unless

otherwise indicated.

4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act]."

- 5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."
  - 6. Section 3732, subdivision (b) of the Code states:

"The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

7. Section 3750 of the Code states:

"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

" . . .

- "(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500). . . ."
  - 8. Section 3750.5 of the Code states:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"

"(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code. . . . "  $\,$ 

## 9. Section 492 of the Code states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

## COST RECOVERY

10. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

11. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

12. Section 3753.1, subdivision (a) of the Code states:

"An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation."

## CONTROLLED SUBSTANCE

13. Methamphetamine is a Schedule II controlled substance pursuant to Health and Safety Code Section 11055.

## **CAUSE FOR DENIAL OF APPLICATION**

(Use of a Controlled Substance)

14. Respondent's application is subject to denial under Code sections 3750, subdivision (g) and 3750.5, subdivision (b), in conjunction with section 3732, subdivision (b), in that she used the controlled substance methamphetamine. The circumstances are as follows:

- A. On October 15, 1999, a Los Angeles County Deputy Sheriff observed that respondent appeared to be upset as she was walking quickly in the parking lot of a motel. When the deputy spoke to her, he observed that her pupils were dilated and her movements were fidgety. She was sweating profusely and was constantly licking her lips as though her mouth was dry. The deputy recognized these symptoms to be consistent with stimulant intoxication. When she was asked for identification, she told the deputy her identification was in her purse in the motel room. The deputy found a small red cannister containing an off-white crystalline substance resembling methamphetamine in her purse. She admitted the cannister belonged to her. She further admitted she used some "crystal" (street name for crystal methamphetamine) that evening. Respondent was arrested for use and possession of a controlled substance.
- B. On October 19, 1999, a complaint was filed against respondent in a criminal proceeding entitled *People v. Evelyn Oseo Salvador*, in Municipal Court, Los Angeles County, Case Number 9CM07908, charging her with possession of a controlled substance, methamphetamine, a violation of Health and Safety Code section 11377(a), a misdemeanor (count 1), and use/under the influence of a controlled substance, methamphetamine, a violation of Health and Safety Code section 11550(a), a misdemeanor (count 2).
- C. On November 30, 1999, respondent pled guilty to use/under the influence of a controlled substance, count 2. The court granted deferred entry of judgment and respondent was placed on diversion for three years. She was ordered

1	to pay a diversion restitution fee of \$100.00, an administrative fee of \$100.00 and to	
2	enroll in an approved narcotics treatment program. Count 1 of the complaint was	
3	dismissed. On May 30, 2000, the court vacated the order for payment of the	
4	\$100.00 diversion restitution fee.	
5	<u>PRAYER</u>	
6	WHEREFORE, Complainant requests that a hearing be held on the matters	
7	herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:	
8	1. Denying the application of Erlyn Oseo Salvador for a Respiratory	
9	Care Practitioner License;	
10	2. Directing Erlyn Oseo Salvador to pay the Respiratory Care Board of	
11	California the costs of the investigation and enforcement of this case, and if placed on	
12	probation, the costs of probation monitoring;	
13	3. Taking such other and further action as deemed necessary and	
14	proper.	
15	DATED: March 13, 2006	
16		
17	Original signed by Liane Zimmerman for:	
18	STEPHANIE NÜNEZ Executive Officer	
19	Respiratory Care Board of California	
20	Department of Consumer Affairs State of California Complainant	
21	Complaniant	
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